

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

GORDON FRANKLIN, JR.,)
Petitioner,)
v.) Civil Action
United States Medical Center for) Nos. 12-3123-CV-S-DW-H
Federal Prisoners,) and 12-3089-CV-S-DW-H
LINDA SANDERS,¹ Warden,)
United States Medical Center for)
Federal Prisoners,)
Respondent.)

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Petitioner, an inmate confined in the United States Medical Center for Federal Prisoners, petitions this Court for a writ of habeas pursuant to 28 U.S.C. § 2241. The petitions have been referred to the undersigned for preliminary review under 28 U.S.C. § 636(b), and have been consolidated because petitioner raises the same issues in each. Because petitioner is entitled to no relief, it must be recommended that he be denied leave to proceed in forma pauperis.

As grounds for relief in habeas corpus, petitioner appears to challenge his commitment pursuant to 18 U.S.C. § 4246. He also contends that he is not required to exhaust administrative remedies, as a civil detainee.

A review of the file and records in these cases, as well as in United States v. Franklin, Case No. 90-3445-CV-S-RED, establish that petitioner has been lawfully committed to the custody of the Attorney General, pursuant to 18 U.S.C. § 4246. That commitment was affirmed by the Eighth

¹Linda Sanders, the current warden at the Medical Center, is the proper respondent.

Circuit Court of Appeals. United States v. Franklin, 04-3783. The United States has submitted annual reports, as required by statute. Other than vague and unsupported allegations, petitioner has failed to establish that his commitment is invalid.² Accordingly, it will be recommended that he be denied leave to proceed in forma pauperis, and that the petitions herein for writs of habeas corpus relief be dismissed without prejudice.

For the foregoing reasons, it is, pursuant to the governing law and in accordance with Local Rule 22 of the United States District Court for the Western District of Missouri,

RECOMMENDED that petitioner be denied leave to proceed in forma pauperis, and that the petitions for habeas corpus relief be dismissed without prejudice.³

/s/ James C. England
JAMES C. ENGLAND
United States Magistrate
Judge

Date: 9/28/12

² Because petitioner has failed to state a constitutional violation, the issue of exhaustion of administrative remedies is not addressed.

³ Petitioner has 14 days to file exceptions to the Report and Recommendation of the United States Magistrate Judge. Those exceptions will be part of the record reviewed de novo by the United States District Judge.